| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 09/945,172 | 08/31/2001 | Robert M. Silverman | END920000185US1 | 3154 |

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|---|---|---|
| 7590 | 12/02/2005 | EXAMINER |

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| EXAMINER |
|---|
| JUNG, DAVID YIUK |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2134 | |

DATE MAILED: 12/02/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

| | Application No. | Applicant(s) |
|---|---|---|
| **Office Action Summary** | 09/945,172 | SILVERMAN, ROBERT M. |
| | **Examiner** | **Art Unit** | |
| | David Y. Jung | 2134 | |

*-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1)☐ Responsive to communication(s) filed on *9/16/2005*.

2a)☐ This action is **FINAL**.    2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4)☐ Claim(s) *1-11,15-27 and 30* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☐ Claim(s) *1-11,15-27 and 30* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

**Application Papers**

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All  b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)☐ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____.

## DETAILED ACTION

## CLAIMS PRESENTED

Claims 1-11, 15-27, 30 are presented.

### *Response to Arguments*

Applicant's arguments filed have been fully considered but they are not

persuasive.

In response to applicant's argument that the references fail to show certain

features of applicant's invention, it is noted that the features upon which applicant relies

(i.e., the bit encoded login being a login with visually viewable images, etc.) are not

recited in the rejected claim(s). Although the claims are interpreted in light of the

specification, limitations from the specification are not read into the claims. See *In re*

*Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

## CLAIM REJECTIONS

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed
> or described as set forth in section 102 of this title, if the differences between the
> subject matter sought to be patented and the prior art are such that the subject
> matter as a whole would have been obvious at the time the invention was made
> to a person having ordinary skill in the art to which said subject matter pertains.

Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-11, 15-27, 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over http://www.sans.org/dosstep/index.php ("Sans").

Regarding claim 1, Sans teaches "A method for detecting computer hacker denial of service attacks, comprising the steps of: issuing a bit encoded login challenge in response request from a requester of services; and login responsive to an incorrect response to said challenge, placing said requester in a state of ... service (Step 2.2: Test your network ...: using ping command to issue a bit mapped challenge)."

These passages of Sans do not teach "limited" service in the sense of the claim. Instead, Sans appears to imply that the service should be entirely cut off if the network is being used as a broadcast amplification site.

Nevertheless, it was well known in the art to have a "limited" service for the motivation of having the option to further track the requestor who may not request again if the service is entirely cut off.

Hence, it would have been obvious to those of ordinary skill in the art at the time of the claimed invention to modify Sans for the motivation noted in the previous paragraphs so as to teach the claimed invention.

Regarding claim 2 (filter, etc.), such particular features are well known in the art for the purpose of security.

Regarding claim 3 (delay of networks, etc.), such particular features are well known in the art for the purpose of detecting denial of service. Indeed, such delay is a

denial of service. Regarding claims 4-10, such particular features are well known in the art for the purpose of handling information across computers and of security.

Regarding claim 11, Sans teaches "A method for detecting computer hacker denial of service attacks, comprising the steps of: executing a challenge-response login procedure and network probing test frame transmission and analysis procedure to detect a hacker denial of service attack; and responsive to detecting said denial of service attack, placing said hacker in a ... level of service state. (Step 2.2: Test your network ...: using ping command to issue a bit mapped challenge)."

These passages of Sans do not teach such service in the sense of the claim (such as filtering by features such as latency, etc.). Instead, Sans appears to imply that the service should be entirely cut off if the network is being used as a broadcast amplification site.

Nevertheless, it was well known in the art to have a service for the motivation of having the option to further track the requestor who may not request again if the service is entirely cut off. Such tracking of an illegal requestor is surely a well known security feature.

Hence, it would have been obvious to those of ordinary skill in the art at the time of the claimed invention to modify Sans for the motivation noted in the previous paragraphs so as to teach the claimed invention.

Regarding claims 15-17, such particular features are well known in the art for the purpose of handling information across computers and of security.

Regarding claim 18, Sans teaches "A system for detecting and responding to denial of service attacks, comprising: test station for identifying a zombie source of said denial of service attack; a ... quality server for serving said zombie source; and a high quality server serving legitimate sources of request for services (Step 2.2: Test your network ...: using ping command to issue a bit mapped challenge) ..."

These passages of Sans do not teach "low" quality server in the sense of the claim. Instead, Sans appears to imply that the service should be entirely cut off if the network is being used as a broadcast amplification site.

Nevertheless, it was well known in the art to have a "low" quality server for the motivation of having the option to further track the requestor who may not request again if the service is entirely cut off.

Hence, it would have been obvious to those of ordinary skill in the art at the time of the claimed invention to modify Sans for the motivation noted in the previous paragraphs so as to teach the claimed invention.

Regarding claims 18-27, 30, such particular features are well known in the art for the purpose of handling information across computers and of security.

### Conclusion

**Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks

Washington, D.C. 20231

**or faxed to:**

(571) 273-8300, (for formal communications intended for entry)

**Or:**

(571) 273-3836 (for informal or draft communications, please label "PROPOSED" or

"DRAFT")

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to David Jung whose telephone number is (571) 272-3836

or Greg Morse whose telephone number is (571) 272-3838.

David Jung

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Patent Examiner

11/28/05